

State of California

**Public Utilities Commission
San Francisco**

MEMORANDUM

Date : September 29, 2006

**To : The Commission
(Meeting of October 5, 2006)**

**From : Laurence G. Chaset, Legal Division
Keith White, Energy Division**

Subject : Staff Seeks Authority to File Comments in Response to the Department of Energy's National Electric Transmission Congestion Study, issued August 2006.

INTRODUCTION

On February 2, 2006, pursuant to Section 1221(a) of the Energy Policy Act of 2005 ("EPAct"), the Department of Energy ("DOE") issued a Notice of Inquiry ("NOI") seeking comments and information concerning its plans for an electricity transmission congestion study and possible designation of National Interest Electricity Transmission Corridors ("NIETCs"). With Commission authorization, staff filed comments on DOE's NOI and actively participated in a conference on the NOI that DOE held on March 29, 2006 in Chicago, IL. Also pursuant to Section 1221(a) of EPAct, and based on the comments it received, in writing, in person at the Chicago meeting, and from numerous other contacts with stakeholder, DOE issued a National Electric Transmission Congestion Study ("Congestion Study") early last month. Comments on DOE's Congestion Study are due on October 10, 2006.

BACKGROUND

Section 1221(a) of EPAct amended the Federal Power Act ("FPA") by adding a new section 216 to that Act. FPA section 216(a) directed the Secretary of Energy to conduct a nationwide study of electric transmission congestion by August 8, 2006. Based upon the Congestion Study, comments thereon, and considerations that include economics,

reliability, fuel diversity, national energy policy, and national security, the Secretary of Energy may designate “any geographic area experiencing electric energy transmission capacity constraints or congestion that adversely affects customers as a national interest electric transmission corridor.” The Congestion Study is to be updated every three years.

The Congestion Study that was issued last month examines transmission congestion and constraints and identifies constrained transmission paths in many areas of the Nation, based on examination of historical studies of transmission conditions, existing studies of transmission expansion needs, and unprecedented region-wide modeling of both the Eastern and Western Interconnections. With the publication of this study, DOE expects to open a dialogue with stakeholders in areas of the Nation where congestion is a matter of concern, focusing on ways in which congestion problems might be alleviated. DOE has indicated that where appropriate, it may designate NIETCs.

The Congestion Study finds that three classes of congestion areas merit further federal attention:

- **Critical Congestion Areas:** These are areas of the country where it is critically important to remedy existing or growing congestion problems because the current and/or projected effects of the congestion are severe. DOE has identified two such areas (each of which is large, densely populated, and economically vital to the Nation), one of which is Southern California.
- **Congestion Areas of Concern:** These are areas where a large-scale congestion problem exists or may be emerging, but more information and analysis appear to be needed to determine the magnitude of the problem and the likely relevance of transmission expansion and other solutions. DOE has identified four Congestion Areas of Concern, one of which is the San Francisco Bay Area.
- **Conditional Congestion Areas:** These are areas where there is some transmission congestion at present, but significant congestion would result if large amounts of new generation resources were to be developed without simultaneous development of associated transmission capacity. One of the areas of principal interest to DOE in this regard is the Tehachapi wind resource area in California.

DISCUSSION

Based on its review of DOE’s Congestion Study, staff is of the view that it should file comments covering the following points:

- In evaluating and responding to DOE’s rationale for designating Southern California as a Critical Congestion Area, the San Francisco Bay Area as a Congestion Area of Concern, and the Tehachapi wind resource area as a Conditional Congestion Area, we should point out the steps that have already been taken, on the state level, to address congestion in these areas. It would therefore certainly be premature for DOE to designate any NIETCs in connection with any of these areas at this time. Indeed, given the progress that we are making, NIETC designation is unnecessary for any of the transmission projects in California that are currently under review or that are expected to be proposed in the next few years.
- For the objective, quantitative analyses, the basis for finding critical congestion in Southern California appears to be a projection of future congestion, rather than to be based on recent or existing congestion. Furthermore, that future congestion is projected (simulated) to be mitigated by various projects which are already in the pipeline.
- The “Southern California” situation actually involves interstate transmission, with the greatest current and projected congestion actually occurring in Arizona-Southern Nevada. Thus the “Southern California Critical Congestion Area” is a misnomer. This is an interstate issue; it is only when and if the interstate process breaks down that the designation of a NIETC might be warranted.
- DOE’s finding that the San Francisco Bay Area is a Congestion Area of Concern appears to be based not on any systematic, objective and quantitative analysis of congestion, but rather on various filed comments and other, unattributed pieces of information, which are largely out of date, misleading, or of limited relevance. Our comments should specifically refute such information. DOE’s Bay Area finding also appears to ignore recent transmission upgrades in the Bay Area, as well as other, not yet built, that have already been approved by the CAISO, as well as planned generator additions and generator retirements. These improvements will affect all parts of the Bay Area, and will eliminate some of the older, high-cost RMR generation units that were the subject of critical comments by some parties.
- DOE appears to be verging on being too proactive by entering the realm of transmission planning, which is not the mandate that Congress gave to DOE in EPAct. For example, if DOE prematurely designates a NIETC in “Southern California” in order to mitigate desert southwest-to-Arizona congestion, this could preempt the substantial existing work on siting proposed new transmission projects, as well as the very active sub-regional planning process.

In addition, our comments will reiterate point that the Commission has already authorized staff to make in this proceeding, including those regarding certain procedural issues, coordination of the Section 1221 process with the EPC Act Section 368 process, deference to existing transmission planning processes in the West, deference to State energy policies and the fact that DOE should not overlook financing constraints.

ACTION REQUESTED:

Legal Division and Energy Division request authorization to submit comments on DOE's Congestion Study that are consistent with the foregoing discussion. When finalized, staff's comments will simply elaborate upon the points discussed above in more detail.

Assigned Staff: **Laurence Chaset (LAU, 5-5595); Keith White (KWH, 5-5473).**